

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

DEPUTY CLERK

AC

UNITED STATES OF AMERICA
Petitioner,

V.

JOSE GONZALEZ
Respondent,

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§

CIVIL ACTION NO. **2-10CV-236-J**

**PETITION TO ENFORCE
INTERNAL REVENUE SERVICE SUMMONSES**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the United States of America, by and through the United States Attorney for the Northern District of Texas, and applies to this Honorable Court for an Order requiring Jose Gonzalez (hereinafter, Respondent), to appear and give testimony and produce certain books, records and papers as more fully set out in Exhibit A attached hereto, relating to the tax liability and/or the collection of the tax liability of Respondent, as requested by summonses issued pursuant to Section 7602 of the Internal Revenue Code by Revenue Officer Sherry L. Ward, an authorized delegate of the Secretary of the Treasury and of the Commissioner of Internal Revenue, to Respondent, on January 21, 2010, and Petitioner would respectfully show as follows:

I.

Respondent resides at 1309 N. Bolton Street, Amarillo, Texas 79107.

II.

Jurisdiction is conferred on this Court by Section 7604(a) of the Internal Revenue Code (26 U.S.C. § 7604(a)).

III.

On January 26, 2010, Revenue Officer Sherry L. Ward, an authorized delegate of the Secretary of the Treasury and of the Commissioner of Internal Revenue, pursuant to Section 7603 of the Internal Revenue Code, served two summonses, copies of which are attached hereto and made a part hereof and marked Exhibit A, requiring Respondent to appear and give testimony and produce certain books, records and papers relating to the tax liability and/or the collection of the tax liability of Respondent, at 7201 I-40 West, Suite 105, Amarillo, Texas 79106 on February 23, 2010, by taping attested copies of the summonses to the front door at 1309 N. Bolton Street, Amarillo, Texas, the last and usual place of abode of Respondent.

IV.

On February 23, 2010, at 7201 I-40 West, Suite 105, Amarillo, Texas, the place specified in the summonses, Respondent did not comply with the requirements of the summonses as described in Exhibit A.

V.

Previous to the issuance of the summonses described above and attached hereto as Exhibit A, the representatives of the Internal Revenue Service had attempted to secure information from the Respondent with which to investigate the federal tax liability of Respondent for the taxable periods ending: December 31, 2003; December 31, 2004; December 31, 2005; and December 31, 2006. Previous to the issuance of the summonses described above and attached hereto as Exhibit A, the representatives of the Internal Revenue Service had attempted to secure information from the Respondent with which to investigate the collection of the federal tax liability of Respondent for the taxable period ending December 31, 2001. The summonses attached hereto as Exhibit A were therefore

issued under Section 7602 of the Internal Revenue Code. Respondent has refused to comply to date with the summonses.

VI.

Attached hereto as Exhibit B are the Declarations of Revenue Officer Sherry L. Ward, attesting to the facts recited herein and showing that, upon information and belief, the documents and testimony sought are relevant and necessary to properly investigate the federal tax liability of Respondent for taxable periods ended: December 31, 2003; December 31, 2004; December 31, 2005; and December 31, 2006, and the collectability of taxes for the taxable period ending December 31, 2001.

VII.

The summonses, which are the subject matter of this action, were issued for a legitimate purpose, pursuant to the Internal Revenue Code, seek information relevant for that purpose, and seek testimony and documents which are not presently in the possession of the Internal Revenue Service. The summonses were issued in compliance with all applicable statutes, rules and regulations, and there is no "Justice Department referral" in effect with respect to Respondent or any person whose tax liability is at issue, pursuant to said summonses, for the tax years in question as that term is defined in 26 U.S.C. § 7602(c).

WHEREFORE, the United States of America, Petitioner, respectfully prays:

(a) That this Court issue an Order forthwith directing the Respondent to appear before this Court at such time as may be fixed by the court to show cause, if any, why an order should not issue directing and commanding the Respondent to appear before an Officer of the Internal Revenue Service at such time and place as the court may order and

to give such testimony and produce such records for inspection and copying as requested in the summonses attached hereto as Exhibit A.

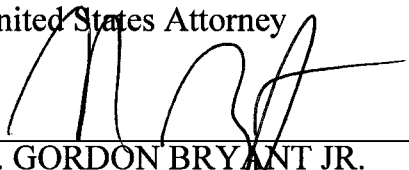
(b) That at the time of said hearing the court shall issue an order directing and commanding the said Respondent to appear before the Secretary of the Treasury or his delegate at such time and place as this Court may order and the Respondent be required to give such testimony and produce such records as requested in the summonses attached hereto as Exhibit A.

(c) That the said Order to Show Cause shall also provide that service of such order together with a copy of this Petition and the attached Exhibits thereto may be made by an Agent of the Internal Revenue Service or by the United States Marshal for the Northern District of Texas or any of his Deputies.

(d) That Petitioner shall have its costs of suit and such other and further relief as may be necessary or appropriate.

Respectfully submitted,

JAMES T. JACKS
United States Attorney



D. GORDON BRYANT JR.
Assistant United States Attorney
Amarillo National's Plaza/Two
500 S. Taylor, Suite 300
Lobby Box 238
Amarillo, Texas 79101-2442
Tel. 806.324.2356
Fax 806.324.2399
Email: gordon.bryant@usdoj.gov
Texas State Bar No. 03274900



Summons

Collection Information Statement

In the matter of JOSE GONZALEZ, 1309 N BOLTON ST, AMARILLO, TX 79107-7160

Internal Revenue Service (Identify Division) SMALL BUSINESS/SELF EMPLOYED

Industry/Area (Identify by number or name) SB/SE AREA 5 (25)

Periods: Form 1040 for the calendar period ending December 31, 2001

The Commissioner of Internal Revenue

To: JOSE GONZALEZ

At: 1309 N BOLTON ST, AMARILLO, TX 79107-7160

You are hereby summoned and required to appear before SHERRY L WARD, an Internal Revenue Service (IRS) officer, and/or his or her designee, to give testimony and to bring for examination the following information related to the collection of the tax liability of the person identified above for the periods shown:

All documents and records you possess or control regarding assets, liabilities, or accounts held in the taxpayer's name or for the taxpayer's benefit which the taxpayer wholly or partially owns, or in which the taxpayer has a security interest. These records and documents include but are not limited to: all bank statements, checkbooks, canceled checks, saving account passbooks, records or certificates of deposit for the period:

From 10/01/2009 To 01/20/2010

Also include all current vehicle registration certificates, deeds or contracts regarding real property, stocks and bonds, accounts, notes and judgments receivable, and all life or health insurance policies.

IRS will use this information to prepare a Collection Information Statement. We have attached a blank statement to guide you in producing the necessary documents and records.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

7201 I-40 WEST STE 105, AMARILLO, TX 79106-2634 (806) 359-2150

Place and time for appearance: At 7201 I-40 WEST STE 105, AMARILLO, TX 79106-2634



Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 6637 (Rev.10-2006)
Catalog Number 25000Q

on the 23rd day of February, 2010 at 1:30 o'clock p m.

Issued under authority of the Internal Revenue Code this 21st day of January, 2010

SHERRY L WARD

Signature of issuing officer

REVENUE OFFICER

Title

Signature of approving officer (if applicable)

EXHIBIT

Title

Original -- to be kept by IRS



Certificate of Service of Summons

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date

1/26/10

Time

2:16 pm

How

☐

I handed an attested copy of the summons to the person to whom it was directed.

Summons

Was

☒

I left an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any).

Served

Left Summons and 433-A Form in a sealed envelope
taped to front door at 1509 N. Bolton St.

Signature

S. Ward

Title

Revenue Officer

I certify that the copy of the summons served contained the required certification.

Signature

Title



Summons

Income Tax Return

In the matter of JOSE GONZALEZ, 1309 N BOLTON ST, AMARILLO, TX 79107-7160

Internal Revenue Service (Identify Division) SMALL BUSINESS/SELF EMPLOYED

Industry/Area (Identify by number or name) SB/SE AREA 5 (25)

Periods: Form 1040 for the calendar periods ending December 31, 2003, December 31, 2004, December 31, 2005 and December 31, 2006

The Commissioner of Internal Revenue

To: JOSE GONZALEZ

At: 1309 N BOLTON ST, AMARILLO, TX 79107-7160

You are hereby summoned and required to appear before SHERRY L WARD, an Internal Revenue Service (IRS) officer, and/or his or her designee, to give testimony and to bring for examination the following information related to the tax liability of the person identified above for the periods shown:

All documents and records you possess or control about income you received for the years: 2003, 2004, 2005 and 2006

These records and documents include, but are not limited to: Forms W-2 (Wage and Tax Statement), Forms 1099 for interest and dividend income, employee earnings statements, and records of deposit with banks or other financial institutions.

Also include all other books, records, documents and receipts for income from, but not limited to, the following sources: wages, salaries, tips, fees, commissions, interest, rents, royalties, alimony, state or local tax refunds, annuities, life insurance policies, endowment contracts, pensions, estates, trusts, discharge of indebtedness, distributive shares of partnership income, business income, gains from dealings in property, and any other compensation for services (including receipt of property other than money). Include all documents and records about any income you assigned to any other Person or entity.

IRS will use this information to prepare a federal income tax return for the following year(s) when you didn't file a return: 2003, 2004, 2005 and 2006

We have attached a blank return to guide you in producing the necessary documents and records.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

7201 I-40 WEST STE 105, AMARILLO, TX 79106-2634 (806) 359-2150

Place and time for appearance: At 7201 I-40 WEST STE 105, AMARILLO, TX 79106-2634



on the 23rd day of February, 2010 at 2:30 o'clock p m.

Issued under authority of the Internal Revenue Code this 21st day of January, 2010

Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 6638 (Rev.10-2006)
Catalog Number 61828W

SHERRY L WARD

Signature of issuing officer

REVENUE OFFICER

Title

Signature of approving officer (if applicable)

Title

Original -- to be kept by IRS



Certificate of Service of Summons

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date

1/26/10

Time

2:16pm

How

☐

I handed an attested copy of the summons to the person to whom it was directed.

Summons

Was

☒

I left an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any):

Served

Left summons and blank 1040 tax forms for 2003, 2004,

2005 and 2006 in a sealed envelope taped to front door at
1309 N. Bolton St.

Signature

J. Ward

Title

Revenue Officer

I certify that the copy of the summons served contained the required certification.

Signature

Title

Civil Action No.

EXHIBIT

above on the respondent, Jose Gonzalez, by leaving a copy at last and usual place of abode, as evidenced in the certificate of service on the reverse side of the summons.

5. On 02/23/2010, the respondent Jose Gonzalez, did not appear in response to summons. The respondent's refusal to comply with the summons continues to the date of this declaration.

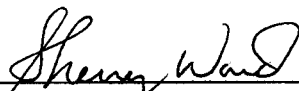
6. The books, papers, records, or other data sought by the summons are not already in the possession of the Internal Revenue Service.

7. All administrative steps required by the Internal Revenue Code for issuance of a summons have been taken.

8. It is necessary to examine the books, papers, records, or other data sought by the summons in order to collect the federal tax liability of JOSE GONZALEZ for the calendar year(s) ended 12/31/2001.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 22 day of September, 2010.


SHERRY L. WARD, REVENUE

OFFICER

- UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

above on the respondent, Jose Gonzalez, by leaving a copy at last and usual place of abode, as evidenced in the certificate of service on the reverse side of the summons.

5. On 02/23/2010, the respondent Jose Gonzalez, did not appear in response to summons. The respondent's refusal to comply with the summons continues to the date of this declaration.

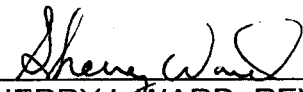
6. The books, papers, records, or other data sought by the summons are not already in the possession of the Internal Revenue Service.

7. All administrative steps required by the Internal Revenue Code for issuance of a summons have been taken.

8. It is necessary to examine the books, papers, records, or other data sought by the summons in order to properly investigate the federal tax liability of JOSE GONZALEZ for the calendar year(s) ended 12/31/2003, 12/31/2004, 12/31/2005, 12/31/2006.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 22 day of September, 2010.


SHERRY L. WARD, REVENUE

OFFICER

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

United States of America

DEFENDANTS

JOSE GONZALEZ

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Randall
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

D. Gordon Bryant, Jr., USAO, 500 S. Taylor, LB 238, Suite 300,
Amarillo, Texas 79101, Tel. 806.324.2356

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

26 USC Section 7602

Brief description of cause:
Enforcement of IRS summonses

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

09/24/2010

SIGNATURE OF ATTORNEY OF RECORD

D. Gordon Bryant, Jr.

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____